

## WESTFIELD-WASHINGTON

### BOARD OF ZONING APPEALS

June 3, 2008

0805-VS-06

Exhibit 1

<b>PETITION NUMBER:</b>	0805-VS-06
<b>SUBJECT SITE ADDRESS:</b>	2809 East State Road 38
<b>APPELLANT:</b>	Balanced Bodywork, Janet A. Tarr
<b>REQUEST:</b>	This variance of standard request is to allow a home occupation to have a monument sign (WC 16.08.010, F3).
<b>CURRENT ZONING:</b>	AG-SF1
<b>CURRENT LAND USE:</b>	Residential
<b>APPROXIMATE ACREAGE:</b>	3.03
<b>RELATED CASES:</b>	1. 0805-VS-07 (Variance for sign area, Pending) 2. 98-V-17 (Variances for road frontage and subdivision requirements, Approved) 3. EN07-09-34 (Enforcement Case, Closed) 4. EN08-04-17 (Enforcement Case, Pending)
<b>EXHIBITS:</b>	1. Staff Report, 06/03/08 2. Aerial Location Map, 05/13/08 3. Property Card, 05/13/08 4. Appellant's Application and Plans, 04/14/08
<b>STAFF REVIEWER:</b>	KMT

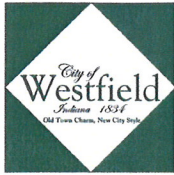
### **PETITION HISTORY**

This petition was heard at the May 13, 2008 Board of Zoning Appeals meeting. A public hearing was held. At the petitioner's request, this case was continued to the June BZA meeting to allow for time to work through issues raised in the staff report. As of the publishing of this report, the petitioner has met with staff and is working to resolve any issues. The recommendations found in this report have not changed from those found in the previous month's report. Any new information will be presented at the June meeting.

### **PROPERTY HISTORY**

Prior to April 1998, the subject property was part of a larger 6 acre +/- parcel. On April 20, 1998, the Board of Zoning Appeals granted a variance on the property (98-V-17) to allow for a subdivision of the property into two lots that did not comply with all subdivision and zoning regulations that were in place at the time.

The subject property was in code enforcement from September 24, 2007 to October 26, 2007 because a ground sign (or monument sign, as defined by the Zoning Ordinance) was being used without proper approval or permits (EN07-09-34). The code enforcement case was closed when the sign was removed. The subject property is currently in enforcement for repeating the same violation plus using off-premise "snipe signs" for advertising purposes without proper approval or permits (EN08-04-17).



There are no additional variances or code enforcement cases for the subject property. There are no previous special exceptions, subdivision plats, development plan, site plan, or rezoning cases for the subject property.

### **ANALYSIS**

This variance case is to allow a monument sign for a home occupation. The appellant has also filed a second request to allow for an increase in sign area for the business on the subject site (0805-VS-07). Staff recommends that each case be reviewed independently, because one is not necessarily binding on the other. The Board could conceivably see fit to grant a variance to allow a monument sign, but not allow an increase in sign area for the site (which would limit the site to four (4) square feet of signage, to be divided between wall and monument signs). In the same way, the Board could conceivably see fit to grant a variance to increase the allowable sign area for the site, but not allow a monument sign (which would increase the allowable size of the wall sign).

The sign standards allow a single, four (4) square-foot sign for home occupations. The standards further mandate that the sign be affixed to a wall or door of the structure housing the business. The residential structure on the subject property is located approximately 170 feet from the State Road 38 right-of-way line.

The subject property fronts on State Road 38 and is approximately 1,500 feet west-northwest of Grassy Branch Road. The subject property abuts the Aurora PUD to the south. According to Aurora's concept plan, the subject property abuts an area reserved for a public park. The concept plan also identifies a neighborhood commercial area called "The Shoppes" that is located approximately 530 feet east-southeast of the subject property. There are three (3) single-family residential properties located between the subject property and the area for The Shoppes. It is anticipated that the shopping center will have a monument sign that is visible from State Road 38.

The Land Use Concept Map in Westfield-Washington Township Comprehensive Plan recommends that this area be developed as a part of a business park (p. 23). State Road 38 is the dividing line between the Business Park distinction (south side of SR 38) and the Rural Northeast distinction (north side of SR 38) on the map. Residential uses and associated home occupations are not contemplated to be within a business park in the future.

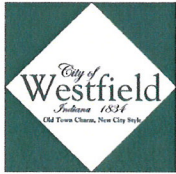
### **PROCEDURAL**

A Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under IC 36-7-4-918.5 only upon a determination in writing that:

### **STANDARDS FOR VARIANCE REQUEST**

1. The approval of such variance of development standard will not be injurious to the public





health, safety, morals, and general welfare of the community:

**Finding:** Adding a monument sign to the property could improve the public safety of motorists on the state highway. A monument sign for the business could ease a patron's ability to locate the business. Doing so could give a patron more time to locate the business' drive and increase the ability of the driver to make a safe turning movement from the highway onto private property, thus improving the safety of all motorists on the highway.

The intent of limiting home occupations to a single, small wall sign is to protect the visual character of a residential area or neighborhood. Allowing home occupations a monument sign could compromise the residential character of a neighborhood, street, or subdivision. The area in question is currently residential and rural in character; however, it is along a state highway that is recommended by the Comprehensive Plan to redevelop non-residentially in the future and already has approval to develop a commercial center nearby.

While it is unlikely that allowing a monument sign on the subject property for a home occupation would be injurious to the public health and safety of the community, allowing the sign could jeopardize and compromise the character and general welfare of the existing residential and rural area.

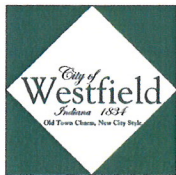
2. The use and value of the area adjacent to the property included in the variance of development standard will not be affected in a substantially adverse manner:

**Finding:** The adjacent properties to the north, east and west are used residentially and do not possess any identifiable home businesses. Adjacent property to the south is part of the Aurora PUD and is part of a proposed public park. Whether a monument sign is allowed or not would not change the existing primary (residential) and secondary (home business) use of the property. Adding a monument sign for the home business on the subject property could, however, create the appearance of the property being used primarily non-residentially.

It is possible that drawing attention to a residential property by installing a monument sign for a home occupation could have an adverse affect on the use and value of the neighboring properties, because of the amplified appearance of living next to a commercial property. Any adverse impact would likely be created by a negative perception of living next to or near commercial uses. An actual, physical impact on neighboring properties as a result of a monument sign on the subject property is unlikely.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:

**Finding:** Signage for a business has two main purposes: advertising and business identification.



The Zoning Ordinance does not preclude the installation of signage for a home-based business on the subject property. The home occupation is allowed a four (4) square-foot wall sign on the structure. The intent of limiting home occupations to a small wall or door-mounted sign is to protect the character of a residential area by not cluttering it with individual monument signs along the corridor.

The required front yard setback along a highway is one hundred (100) feet, and the existing structure on the subject property is approximately 170 feet from the State Road 38 right-of-way line. To be able to identify and read a four (4) square-foot wall sign from the highway would be difficult for most motorists.

Because the property fronts on a state highway and the required front yard setback is substantial, the Zoning Ordinance may be unduly restricting the applicant's ability to provide business advertising and identification, per the home occupation signage standards.

#### **ADDITIONAL COMMENTS**

Since the home occupation in question is located on a state highway and not in a traditional subdivision, staff believes that it would be appropriate to allow a small monument sign on the subject property. However, it is important to maintain the residential and rural character of the area. Therefore, in order to achieve that goal, staff believes it would be appropriate to allow the home occupation on the subject property with a monument sign that is comparable in character and appearance as that of a typical residential sign. Typical and acceptable residential signs include (but are not limited to) wooden-framed real estate signs and signs placed on decorative pillars, walls, fences or gates.

#### **APPLICABLE CONDITIONS of APPROVAL**

1. That the subject property be limited to one (1) monument sign;
2. That the monument sign, including its support structure, have the character and appearance of a residential sign, as determined by the Community Development Director, or designee;
3. That the monument sign not be temporary in appearance, structure or materials, as determined by the Community Development Director, or designee;
4. That the monument sign not exceed the maximum allowable sign area for a home occupation on the subject property;
5. That the monument sign have a maximum height of six (6) feet, from grade;
6. That the monument sign be located at least ten (10) feet from the edge of the road right-of-way;
7. That the monument sign not be illuminated;
8. That the monument sign is not eligible for sign area bonuses; and,
9. That the monument sign comply with all applicable regulations.





**RECOMMENDATIONS**

Approve this request, with the listed applicable conditions, based on the findings of this report.

\*\*\*\*\*

***KMT***

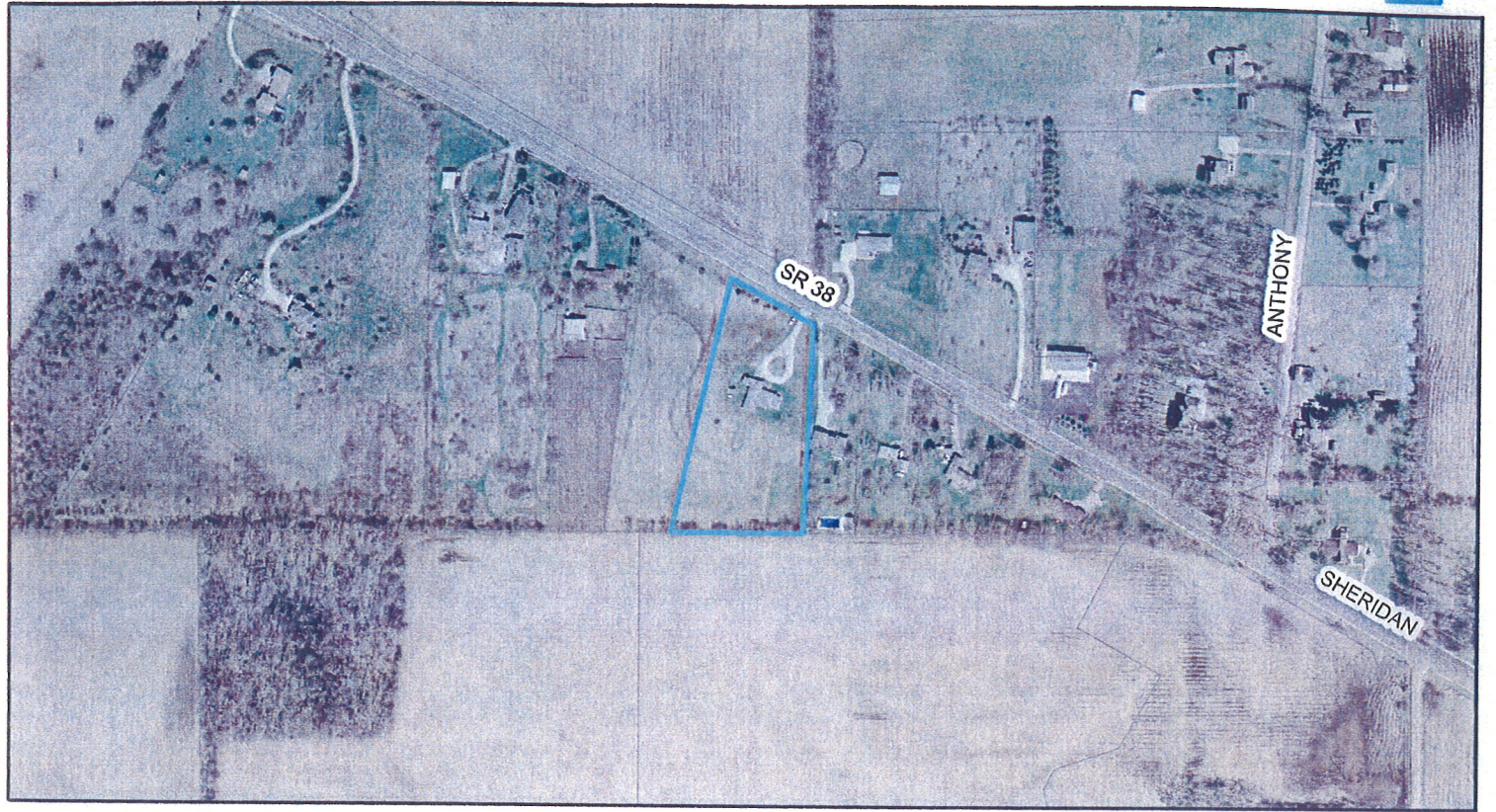




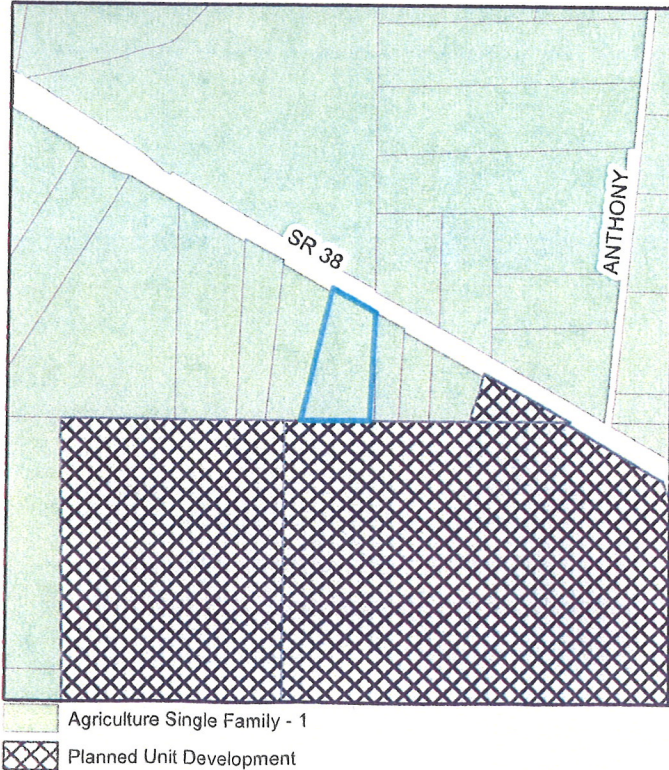
0805-VS-06 and 0805-VS-07  
08-06-18-00-00-018.000  
2809 SR 38 E  
Exhibit 2



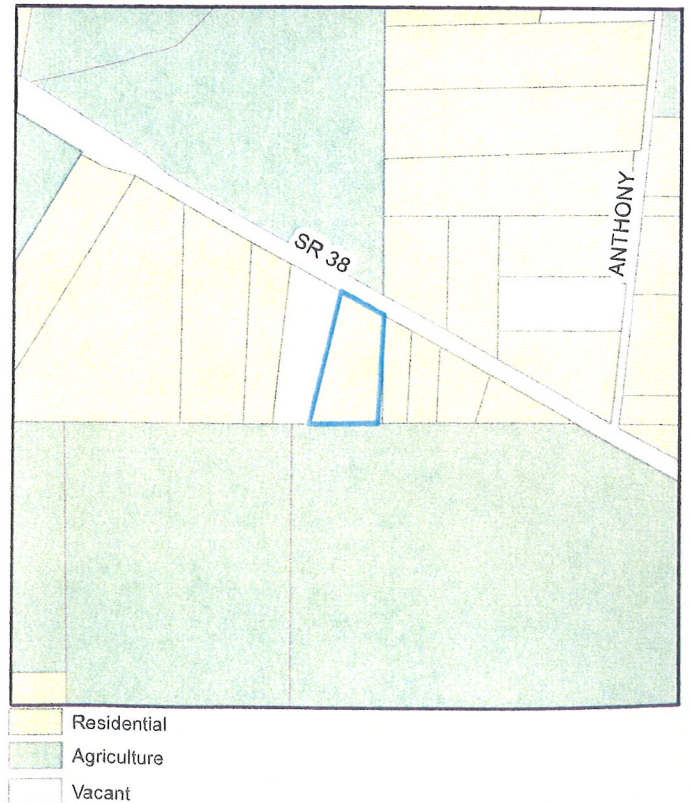
Aerial Location Map



Zoning Map



Existing Land Use Map





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**Summary Information - Parcel Number: 08-06-13-00-00-013.000****Property Data**

Parcel Location	2809 S R 38 E, Westfield
Taxing Unit	Washington
Legal Description	177-72 AUD 9/15/
Section/Township/Range	S18 T19 R04
Subdivision Name	NULL
Lot and Block	Lot Block
Acres	3.03
Effective Frontage	
Effective Depth	
Property Class	Res-1-Family 0 - 9.99 acres

**Exterior Features and Out Buildings**

- 1 Attached Garage, 1 Utility Shed,  
2 Open Frame Porch,

**Property Owner as of April 30, 2007**

Tarr, Janet A

**Most Recent Valuation as of March 1, 2007**

Assessed Value: Land	64100
Assessed Value: Improvements	135200
Total Assessed Value:	199300

**Building 1, Card ID R01****Physical Characteristics**

Story Height	1.0
Attic	none
Basement	none
Crawl	none
Year Built	1994

**Floor Construction**

1.0 (first)	Slab
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**Floor Finish**

1.0 (first)	Carpet, Vinyl tile
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**Exterior Cover**

1.0 (first)	Wood siding
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**Interior Finish**

1.0 (first)	Drywall
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**Accommodations**

Finished Rooms	7
Bedrooms	3

**Heating and Air Conditioning**

Primary Heat	YES
Air Conditioning	YES

**Plumbing**

Full Baths	2
Partial Baths	0

**Fireplace**

Fireplace Stacks	NO
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**Basement Rec Room**

Rec Room Type	
Rec Room Square Footage	0

**Area/Square Footage (based on exterior eave to eave area)**

Building Level	Base Area	Approx. Finished Area
1.0 (first)	1653	1653

**Garage**

Garage Type	
Garage Square Footage	0

This application is developed and maintained by the Information System Services Department. If you have any questions or comments, please contact the [Webmaster](#).  
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TOWN OF WESTFIELD, INDIANA

Petition Number:

0805-VS-04

Date of Filing:

0805-VS-07

**Application for VARIANCE OF DEVELOPMENT STANDARD**  
**Westfield – Washington Township**  
**Board of Zoning Appeals (BZA)**

This application must be completed and filed with the Community Services Department of the Town of Westfield, Indiana in accordance with the meeting schedule.

1. Appellant's Name Janet A. Tarr  
 Address 2809 State Rd 38 E - Westfield  
 Telephone Number 317-440-1732  
 E-Mail Address Janet@J-Tarr.COM
2. Landowner's Name SAME  
 Address \_\_\_\_\_  
 Telephone Number SAME
3. \*Representative  
 \*Address N/A  
 \*Telephone Number N/A  
 \*Email Address \_\_\_\_\_

\*If the applicant is not presenting a petition, please provide contact information for the party representing the applicant.

4. Common description of property (address, location, etc.)  
2809 State Rd 38 E  
Westfield, IN 46074
5. Legal description of property (list below or attach)  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
6. Complete description of the nature of the development standard variance applied for:  
Monument Sign for home occupation and  
Increase size of sign for home occupation  
Size of sign 5x4



7. **ALL SITE PLANS SHALL BE LEGIBLE AND DRAWN TO SCALE.** Site plans must accompany this application and must depict at a minimum:

- Lot(s) shape and dimensions;
- Location and dimensions of existing and proposed structures;
- Location and dimensions of existing and proposed points of ingress and egress; and
- All topographic and natural features and/or other unusual characteristics associated with the property.

8. The Applicant must address the following criteria and establish at the public hearing that each of the following is true in order to obtain a favorable determination from the BZA.

*No variance of development standard shall be granted unless the BZA finds all of the following to be true:*

- That the approval of such variance of development standard will not be injurious to the public health, safety, morals, and general welfare of the community:

*The approval of the variance will be a benefit to the community. My studio is a place of peace and tranquillity.*

- That the use and value of the area adjacent to the property included in the variance of development standard will not be affected in a substantially adverse manner:

*The area is in a state of change. The property just east of mine is being developed. (Aurora) Commercial retail with frontage on State Rd 38 is proposed awaiting final approval.*

- That the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:

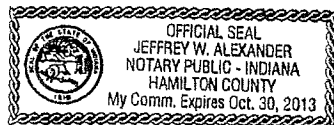
*Having a sign in the yard large enough that people driving 60 MPH can read will result in stress relief. Now people will know there is a place nearby to relax and recharge. My home is 200 feet from the road. People cannot see the sign on the house. previously I had a small sign up for 2 years with no complaints. (in the yard)*

TOWN OF WESTFIELD, INDIANA

The Appellant hereby certifies that the information contained in and accompanying this application is true and correct.

[Signature]  
Applicant

SUBSCRIBED AND SWORN TO ME THIS 14<sup>th</sup> DAY OF April, 2008.



[Signature]  
Notary Public Jeffrey W. Alexander

My commission expires: 10/30/2013



WARRANT(S) to

JANET A. TARR

WARRANT(S) of

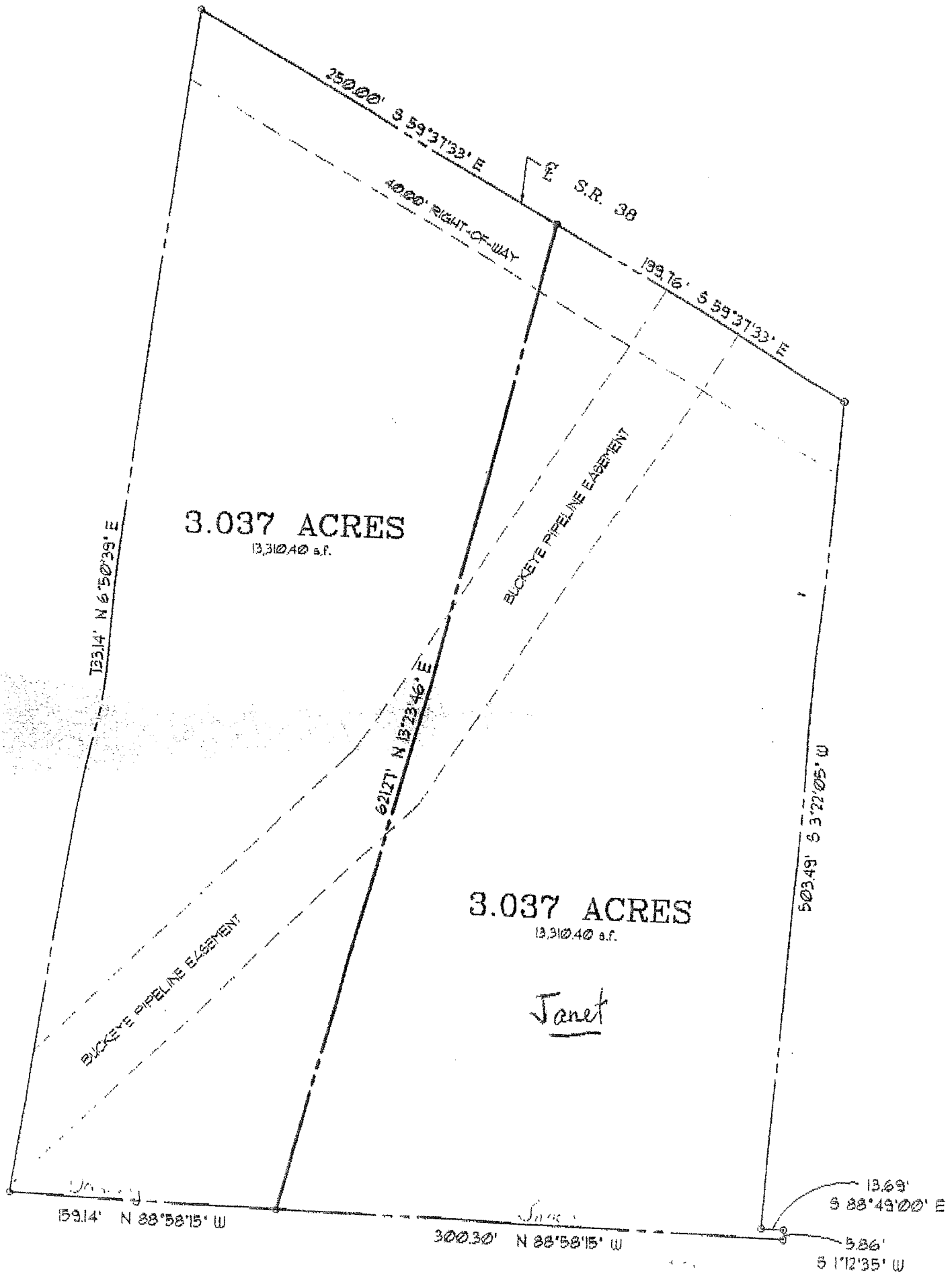
Hamilton

County in the State of

Indiana

consideration of One Dollar (\$1.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following described  
al estate in Hamilton County, in the State of Indiana:

Part of the West Half of the Southeast Quarter of Section 18, Township 19 North, Range 4 East, Hamilton County, Indiana, and being more particularly described as follows: Beginning at the Southeast Corner of said half-quarter section; thence North 88 degrees 58 minutes 15 seconds West along the South line of said half-quarter section, 300.30 feet; thence North 13 degrees 23 minutes 46 seconds East a distance of 621.27 feet to the centerline of State Road 38 as it now exists; thence South 59 degrees 37 minutes 33 seconds East along said centerline, 199.76 feet to its intersection with an existing North to South fence line prolonged; thence South 3 degrees 22 minutes 05 seconds West along said fence line prolonged and fence line, 503.47 feet to an iron pipe found at its intersection with an existing East to West fence line; thence South 88 degrees 49 minutes 00 seconds East along said east to west fence line, 13.68 feet to its intersection with the East line of said half-quarter section; thence South 1 degree 12 minutes 35 seconds West along said east line, 5.86 feet to the Point of Beginning and containing 3.037 acres, more or less. Subject to right of way for State Road 38 off the entire Northerly side thereof and all other legal easements and rights of way of record.







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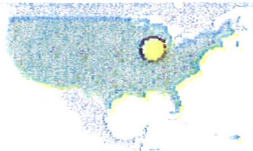
Street

2809 State Road 38 E

City

Westfield

State



Longitude

-86.11437

Latitude

40.08891

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Maps for this pointPowered by  
INFOWeather

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35 km N of Indianapolis, Indiana, United States 2/26/199

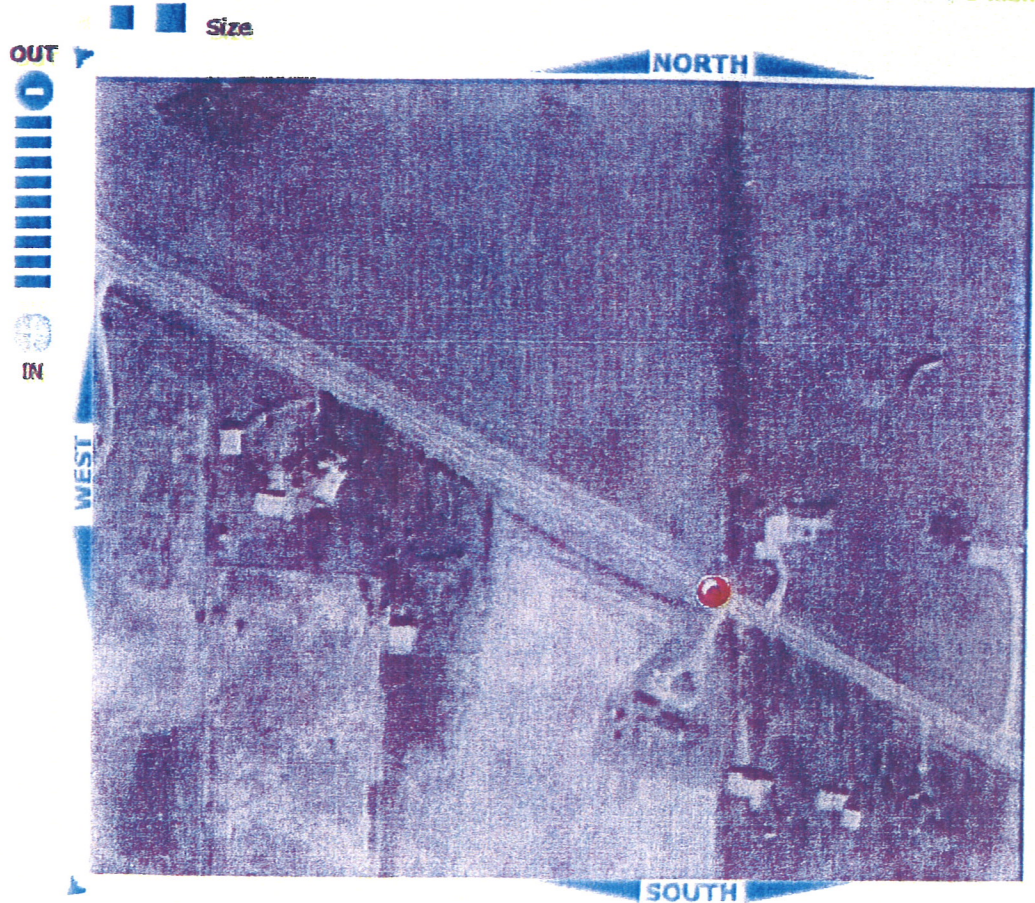
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